IN THE HIGH COURT OF JUDCATURE AT MADRAS

DATED : 04.11.2006

CORAM

THE HONOURABLE MR. JUSTICE ELIPIE DHARMA RAO
AND
THE HONOURABLE MR. JUSTICE S.K. KRISHNAN

W.P.NO.29822 OF 2004

R. Shankar,
S/o.A. Raphel .. Petitioner

Vs.

1. The Registrar General,
   High Court, Madras 600 104.

2. State of Tamil Nadu,
   rep. by its Secretary to Govt.,
   Adi Dravida and Tribal Welfare
   Department, Fort St. George,
   Chennai 9.

3. The Deputy Secretary,
   Tamil Nadu Public Service Commission,
   Chennai 600 002. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus to call for the records of the third respondent in Memorandum No.4131/OTD-C2/2000 dated 8.6.2004 of the third respondent and quash the same and direct the respondents to give appointment to the petitioner as Civil Judge (Junior Division/Judicial Magistrate,I Class) in the Tamil Nadu Judicial Service, 1999-2000 and 2000-2001 with appropriate seniority as per law.

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For Petitioner : Mr.AR.L. Sundaresan
Senior Counsel for
Ms.AL. Ganthimathi

For Respondents 1&2 : Mr.V. Viswanathan, A.G.P.,

For Respondent-3 : Mr.R. Suresh Kumar (TNPSC)

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O R D E R

(Order of the Court was made by ELIPIE DHARMA RAO, J)

The petitioner has filed this writ petition for the issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent, namely, the Deputy Secretary of Tamil Nadu Public Service Commission, in Memorandum No.4131/OTD-C2/2000, dated 8.6.2004, quash the same and direct the respondents to give appointment to the petitioner as Civil Judge (Junior Division/Judicial Magistrate,I Class) in the Tamil Nadu Judicial Service, 1999-2000 and 2000-2001 with appropriate seniority as per law.

2. The facts giving rise to filing of the present writ petition are as follows :-

The petitioner was born on 12.3.1964 to Christian parents and the paternal grandfather of the petitioner's father belonged to Hindu Adi Dravidar community in Tamil Nadu and later converted to Christianity. In the year 1983, the petitioner renounced Christianity and reconverted to Hinduism by changing his name as Shankar from Charles and the same was published in the Government Gazette dated 20.4.1983. The petitioner has stated that Tamil Nadu Hindu Mission, Salem, had issued a certificate to the effect that he renounced Christianity and reconverted to Hinduism. The petitioner has obtained a Caste Certificate from the Deputy Tahsildar, Gingee, dated 19.10.1983 certifying that he belongs to Hindu Adi Dravida, which is recognised as a Schedule Caste in the State of Tamil Nadu. It is further stated that subsequently the petitioner migrated to Chennai in 1989 and completed his B.L. Degree in the University of Madras and on 28.3.1990 he got himself enrolled as an Advocate on the roll of the Bar Council of Tamilnadu. Pursuant to his migration to Chennai, the petitioner obtained a Community Certificate on 16.2.1990 from the Tahsildar, Saidapet, certifying that he belongs to Hindu Adi Dravida community and, based on such certificate, he changed his name in all the educational records. The petitioner has further stated that his re-conversion to Hinduism was recognised by the community and he participated in the functions of his community people and his communal Associations and he was accepted as a member of the community by the Tamil Nadu Government SC's/ST's Employees' Welfare Association. While the matter stood thus, the TamilNadu Public Service Commission called for applications for the post of Civil Judge (Junior Division/Judicial Magistrate, I Class) in the Tamil Nadu State Judicial Service by direct recruitment under the provisions of Tamil Nadu State Judicial Service (Cadre and

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Recruitment) Rules, 1995. The petitioner applied for the said post and he was called to appear for Written Examinations held on 14.10.2000 and 15.10.2000 under Registration No.995967. The petitioner appeared and he was provisionally admitted to the oral test and subsequently after interview he was selected, but, his result was with-held on the ground of verification of community. Thereafter, the Government by G.O.Ms.No.126 approved selection of 36 candidates in which the petitioner was at second position, though his results were withheld and not published. The petitioner thereafter sent a letter dated 27.3.2001 to the Controller of Examinations to furnish his marks obtained in the examination, but there was no reply. The petitioner subsequently made a representation dated 30.1.2002 to the third respondent to publish the results and issue posting orders. While so, the petitioner received a Memorandum dated 24.5.2002 from the Revenue Divisional Officer, Chengalpattu, whereby he was called upon to be present for an enquiry with regard to his community status on 10.6.2002 with all his original testimonials. The petitioner participated in the enquiry conducted on 12.6.2002 and produced the certificates in support of his communal status. Thereafter on 25.6.2002 the petitioner again made a representation to the third respondent to publish the results. The third respondent, in his reply dated 5.7.2002, informed the petitioner that the matter is still under consideration. On receipt of such reply, the petitioner made several representations. Thereafter, the petitioner was served with the impugned Memorandum dated 8.6.2004 by the third respondent wherein he was informed that in pursuance of the order passed by the Supreme Court in SLP(C) No.27571/95 and as per the clarification of the Government in letter No.81 dated 19.9.2000, the petitioner is not eligible to get the community certificate as belonging to Scheduled Caste Adi-Dravidar and also to enjoy the concessions extended by the Government to such caste. The relevant portion of the impugned order, being relevant, is extracted hereunder :-

> "2. On addressed by the Commission for a report in the matter, the Chairman, District Vigilance Committee and Collector of Kanchipuram District has reported that in pursuance of the orders of the Supreme Court of India in SLP(C) No.27571/95 and as per the clarification of the Government in letter No.81, Adi-Dravidar and Tribal Welfare Department, dated 19.9.2000, Thiru R. Shankar is not eligible to get the community certificate as belonging to Scheduled Caste Adi-Dravidar and also to enjoy the concessions extended by the Government to Scheduled Caste Adi-Dravidars. Based on the above report of the District Collector, the Commission has since classified the candidate, Thiru.R. Shankar under Backward Class category. Thiru.R. Shankar is hereby informed that based on the marks secured by him and with regard to the

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rule of reservation of appointments as a Backward Class candidate, he had not reached the zone of selection even for oral test for the said post."

Aggrieved by the aforesaid impugned order passed by the third respondent, the petitioner has preferred this writ petition.

2. A counter affidavit has been filed by the State, wherein it is indicated that the petitioner is not eligible for any concession conferred to a Hindu under the Constitution (Scheduled Caste) Order, 1950. It is further indicated that as per the Notification issued by the President of India, a Christian would not come under 'Scheduled Caste' and therefore, re-conversion of the petitioner to Hinduism by renouncing Christianity would not confer any right on him to claim community status under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. It is further indicated that the petitioner on misrepresentation had managed to obtain Community Certificate as Adi Dravidar from Gingee taluk in the year 1983 and the subsequent Community Certificate on 16.2.1990 from the Tahsildar, Saidapet. It is also indicated that his change of name in college certificates will not confer any statutory right to him for enjoying the constitutional concessions conferred to Hindu Adi Dravida community. It is further indicated that the report of the Chairman, District Vigilance Committee and Collector of Kanchipuram District, stating that the petitioner is not eligible to get the community certificate as Adi Dravidar, is based on facts and the case of the petitioner is to be rejected.

3. Third respondent has filed a counter affidavit stating that the Commission issued the Notification, dated 4.7.2000, inviting applications for the post of Civiil Judge (Junior Division/Judicial Magistrate I Class) in the Tamil Nadu State Judicial Service by direct recruitment. Out of 43 posts, 8 posts were reserved for Scheduled Caste candidates. The procedure of selection at various stages was detailed in the counter. It is indicated that in order to ascertain the community status, this respondent has requested the District Vigilance Committee and Collector of Kanchipuram District to conduct an enquiry and send a report in the matter and, pending receipt of the report, the petitioner was permitted to participate in the process of selection provisionally. It is further indicated that the report of the aforesaid Committee revealed that the petitioner is not eligible for the community certificate as belonging to Scheduled Caste - Adi-Dravida. It is further indicated that this respondent vide Memo No.4131/OTD-C2/2000, dated 8.6.2004, informed the petitioner about his non-selection under Backward Class category and that he could not be treated under SC category since he was born to Christian parents. It is also indicated that since the matter was

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under consideration of the Commission and the Government, there was some delay. It is stated that the decision of the Commission was made only after proper application of mind and having regard to the Rules, regulations, laws, the decisions of the Supreme Court and the decision of the Chairman of District Vigilance Committee and Collector of Kanchipuram District. It is further stated that re-conversion of the petitioner to Hinduism cannot be accepted as the petitioner parents were Christians and the petitioner was not entitled for the relief claimed.

4.Mr. AR. L. Sundaresan Learned Senior Counsel appearing for the petitioner has made three-fold submissions. Firstly, though the parents of the petitioner belong to Christianity and he born as a Christian, subsequently, he reconverted to Hinduism which was accepted by the community as a whole, therefore, the respondents should not have denied his candidature to the post of Civil Judge (Junior Division/Judicial Magistrate I Class); secondly, that the community certificate has been issued by the Tahsildar after conducting necessary enquiry and unless such certificate is cancelled by the Tahsildar, the petitioner should not have been denied selection to the post on the ground that he does not belong to Scheduled caste as his parents belong to Christianity; and thirdly, that the decision of the Supreme Court reported in AIR 1996 SC 1182, strongly relied upon by the respondents, is in no way applicable to the facts and circumstances of the present case as in that case the point for consideration was whether a suit under Section 9 of the CPC would be maintainable to determine the communiy status. In support of the aforesaid contentions, the learned Senior Counsel has placed reliance upon the decisions of the Supreme Court reported in AIR 1976 SC 939 (C.M. ARUMUGAM v. S. RAJGOPAL) and AIR 1976 SC 1904 (THE PRINCIPAL, GUNTUR MEDICAL COLLEGE, GUNTUR AND OTHERS v. Y. MOHAN RAO) and the Division Bench decision of this Court reported in 2002(2) CTC 257 (N.S. ZIAUDDEEN v. S. ASHOK KUMAR AND 3 OTHERS).

5. Combating the submissions made by the learned Senior Counsel, the learned counsel appearing for the Commission has contended that the report submitted by the Committee, indicating that the petitioner was not eligible to get the certificate as if he belongs to Adi-Dravidar Scheduled Caste community, is based on facts and should not be interfered with. He has further submitted that the children born to Christian parents only belong to Christianity and, though they re-convert to Hinduism, they cannot claim concession conferred under the Constitution in pursuance of the decision of the Supreme Court in Swvigaradoss case and the letter of the Government in Lr.No.81 dated 19.9.2000. He has submitted that as per G.O.Ms.No.28 Backward Class & Most Backward Class Welfare Department dated 19.7.1994, the petitioner was considered as belonging to Backward Class and therefore he was not

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within the zone of consideration on the marks obtained by him in the written examination and as such he was not selected.

6. Before considering the rival submissions made by either parties and the decisions referred to, we deem it worthy to first refer to certain vital factual aspects.

The petitioner was born in 1964 to Christian parents and he reconverted to Hinduism in 1983 after performing customary ceremonies. After migrating to Chennai from Gingee, he obtained necessary Community Certificate from the Tahsildar, Saidapet, and changed his name from Charles to Shankar in all his educational records. He was admitted to Law College as a student of Schedule Caste and completed the course and enrolled himself as an Advocate with the roll of Bar Council of Tamil Nadu. Re-conversion of the petitioner to Hinduism was accepted by his community as a whole and he was accepted as a Member by the Tamil Nadu Government SCs/STs Employees' Welfare Association and a certificate dated 27.3.1983 issued by the Tamil Nadu Hindu Mission, Salem, was also produced to show that the petitioner renounced Christianity and reconverted himself to Hinduism. In order to substantiate his case, the petitioner has produced several documents to show that he was accepted as a member of Adi-Dravidar. The certificate dated 12.3.1995 issued by the Social Education and Economic Development Society, certificate dated 4.8.1995, issued by the Tamil Nadu Dr. Ambedkar Association, Invitation dated 4.10.1995 offered by Auto Drivers' Association, certificate dated 3.12.1999 by the Tamil Nadu Government SCs/STs Employees' Welfare Association, and the Certificate dated 21.2.2000 issued by the Community Acceptance Certificate by Indian Rural Development Society would all go to show that conversion of the petitioner to Hinduism from Christianity was accepted by the members of the caste to which the petitioner belongs to. Moreover, the educational certificates produced by the petitioner would also show that he belongs to Scheduled Caste.

7. Now it would be proper to consider the contentions raised by either parties and the decisions referred have to be considered in the background of the above factual scenario.

Coming to the first submission made by the learned Senior Counsel, he pointed out that when re-conversion of the petitioner to Hinduism was accepted by the members of the caste to which he belonged to prior to conversion, it is for the members of the caste to decide whether or not to admit such a person within the caste. In support of his contention, learned Senior Counsel has placed reliance upon the decision of the Supreme Court reported in AIR 1976 SC 939 (C.M. ARUMUGAM v. S. RAJGOPAL). The main question which arose for consideration in the case before the Supreme Court

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was that whether a person, who belonged to Adi Dravida caste before his conversion to Christianity could, on re-conversion to Hinduism, once again becomes a member of the Adi dravida caste. While answering the question, the Supreme Court observed that the consistent view taken in this country since 1886 was that on re-conversion to Hinduism, a person can once again become a member of the caste in which he was born and to which he belonged to before conversion to another religion, if the members of the caste accept him as a member. It was further observed that there was no reason, either on principle or on authority, which should compel it to disregard the aforesaid view which had prevailed for almost a century and lay down a different rule on the subject, and finally concluded that on re-conversion to Hinduism, the petitioner in that case can once again revert to his earlier caste, namely, Adi Dravida, which was accepted by the other members of the caste.

8. Further the learned Senior Counsel has strongly placed reliance upon the decision of the Supreme Court in AIR 1976 SC 1904 (THE PRINCIPAL, GUNTUR MEDICAL COLLEGE, GUNTUR AND OTHERS v. Y. MOHAN RAO) to substantiate his claim that the reconverted person to Hinduism from Christianity is eligible for the benefit of reservation of seats for scheduled castes.

The question put forth in the aforesaid case is whether a person whose parents belonged to a Scheduled Caste before their conversion to Christianity can, on conversion or re-conversion to Hinduism, be regarded as a member of the Scheduled Caste so as to be eligible for the benefit of reservation of seats for Scheduled Castes. In that case, the parents of the respondent originally professed Hindu religion and belonged to Madiga caste which is a caste deemed to be a Scheduled Caste in the State of Andhra Pradesh as specified in Part I of the Schedule to the Constitution (Scheduled Castes) Order, 1950. They were both converted to Christianity at some point of time. The respondent born after the conversion of his parents, or, in other words, he was born to Christian parents. He applied for admission to Gandhi Medical College in 1973 by describing himself as Backward Class as in the State of Andhra Pradesh converts to Christianity are treated as belonging to Backward Class, but he did not succeed in getting admission. Thereafter he got himself converted to Hinduism after going through Suddhi ceremony and he received back into Madiga caste of Hindu fold. On the strength of such certificate, the respondent applied for admission to Guntur Medical College on the basis that he was a member of Scheduled Caste and he was provisionally selected for admission. But subsequently he was informed that his selection was cancelled as he was not a Hindu by birth, according to relevant rules. The respondent challenged the validity of cancellation of his admission before the High Court. The contention before the High Court was that the Principal was not

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entitled to cancel the admission on the ground that the respondent (petitioner before the High Court) was not a Hindu or a member of a Scheduled Caste by birth. Such contention was accepted by the learned single Judge and in appeal the Division Bench also took the same view. On Special Leave, the matter came up before the Supreme Court. The Supreme Court after relying upon its earlier decision, which is also in same lines, reported in AIR 1976 SC 939 (cited supra) observed as follows :-

> "7. The reasoning on which this decision proceeded is equally applicable in a case where the parents of a person are converted from Hinduism to Christianity and he is born after their conversion and on his subsequently embracing Hinduism, the members of the caste to which the parents belonged prior to their conversion accept him as a member within the fold. It is for the members of the caste to decide whether or not to admit a person within the caste. Since the caste is a social combination of persons governed by its rules and regulations, it may, if its rules and regulations so provide, admit a new member just as it may expel an existing member. The only requirement for admission of a person as a member of the caste is the acceptance of the person by the other members of the caste, for, as pointed out by Krishnaswami Ayyangar, J., in Durgaprasada Rao v. Sudarsanaswami, AIR 1940 Mad 513, "in matters affecting the well being or composition of a caste, the caste itself is the supreme judge." (emphasis supplied). It will, therefore, be seen that on conversion to Hinduism, a person born of Christian converts would not become a member of the caste to which his parents belonged prior to their conversion to Christianity, automatically or as a matter of course, but he would become such member, if the other members of the caste accepts him as a member and admit him within the fold."
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> (Emphasis supplied by us)

9. Learned Senior counsel has also placed reliance upon a Division Bench decision of this Court reported in 2002(2) CTC 257 (N.S. ZIAUDDEEN v. S. ASHOK KUMAR AND 3 OTHERS). A similar issue came before the Division Bench and the Division Bench after relying upon the decisions of the Supreme Court reported in AIR 1976 SC 939, AIR 1976 SC 1094 (cited supra) observed that the social status as depicted by caste certificate is entitled to statutory presumption when such certificate has not been questioned and there was no occasion for inquiry into such certificate.

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10. Learned counsel appearing for the respondents on the other hand has placed reliance upon the decision of the Supreme Court reported in AIR 1996 SC 1182 (S. SWVIGARADOSS v. ZONAL MANAGER, FOOD CORPORATION OF INDIA) and contended that since the Supreme Court has held that the Presidential notification, subject to the amendment by the Parliament, is conclusive and Christian is not a Scheduled Caste under the said notification, the case of the petitioner should be rejected.

11. We have carefully gone through the aforesaid decision. In the said decision, the earlier decisions of the Apex Court reported in 1976 SC 939 and 1976 SC 1094 (cited supra) have not been referred to and they have not been distinguished. The question before the Supreme Court was whether the suit filed under Section 9 CPC challenging the communal status would be maintainable. The contention of the petitioner was that even though he was born to Christian parents, with the consent of his parents, he got converted into Hinduism and on such conversion, he became Adi Dravida and consequently entitled to the status of Scheduled Caste. By repelling the aforesaid contention, the Supreme Court observed:

> "8. The courts, therefore, have no power except to give effect to the notification issued by the President. It is settled law that the Court would look into the public notice on under section (sic) Article 341 (1) or 34291) for a limited purpose. The notification issued by the President and the Act of the Parliament under Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 and the Schedules appended thereto can be looked into for the purpose to find whether he castes, races or tribes shall be Scheduled Castes for the purposes of the Constitution. Under the Amendment Act, 1976, again the Parliament has included or excluded from schedules appended to the Constitution which are now conclusive. Schedule I relates to Scheduled Castes and Schedule II relates to Scheduled Tribes. Christian is not a Scheduled Caste under the notification issued by the President. In view of the admitted position that the petitioner was born of Christian parents and his parents also were converted prior to his birth and no longer to be Adi Dravida, a Scheduled Caste for the purpose of Tirunelveli District in Tamil Nadu as notified by the President, petitioner cannot claim to be a Scheduled Caste. ..."

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In that case there was no pleading that the parents of the petitioner therein were originally belonged to Adi Dravida Scheduled Caste. Under such facts, the Supreme Court held that no legally acceptable proof was adduced to accept the contention of the petitioner therein that he converted himself as a Hindu. What is stated in the above para 8 by the Supreme Court should be construed only in that context and no absolute proposition or principle has been laid down on the aspect as the one involved herein. The Supreme Court, while dismissing the suit as not maintainable, has only made observations relating to the facts and circumstances of such case and the earlier decisions on the point were not considered nor distinguished.

Therefore, the decision reported in Swvigaradoss's case relied upon by the respondents is not applicable to the facts and circumstances of the present case.

12. The other contention raised by the learned Senior Counsel is that when once the competent authority, namely, the Tahsildar, issued the caste certificate after conducting enquiry, on the basis of which the petitioner corrected his caste in educational certificates, got admitted in the educational institutions, completed the B.L. Course and got enrolled as an Advocate, rejecting the candidature of the petitioner by the Service Commission on the report submitted by the Revenue Divisional Officer without conducting a proper enquiry as contemplated under law, is illegal and against the principles of natural justice.

13. The aforesaid contention was resisted by the learned counsel appearing for the respondents by arguing that as per the report of the Revenue Divisional Officer dated 13.6.2002 and the subsequent report of the District Vigilance Committee dated 11.7.2002, based on the report forwarded by the Revenue Divisional Officer, the petitioner is not eligible for the Caste Certificate as if he belongs to Adi Dravida (Scheduled Caste). He has further submitted that the report of the Revenue Divisional Officer and the District Collector are based on facts and proper enquiry as contemplated under law and therefore the prayer of the petitioner should not be accepted.

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14. The argument made by the learned counsel appearing for the respondents though appears to be attractive, on a closer scrutiny; found to be feeble, hence, liable to be rejected. A careful reading of the reports of the District Collector as well as the Tahsildar would clearly show that the petitioner reconverted to Hinduism in 1983, his name was changed from Charles to Sankar and a

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certificate to that effect was given by Hindu Mission. The question involved in the present case is whether a person, whose ancestors belonged to a scheduled caste before conversion to Christianity can, on conversion or re-conversion to Hinduism, be regarded as a member of the scheduled caste and as to whether the caste certificate issued to the petitioner is genuine or not. In the case of genuineness or otherwise of the community certificate only, the question of conducing enquiry by the Revenue Divisional Officer or the District Vigilance Committee would arise. While deciding the case of reconversion, it is not necessary to go into those aspects and it is sufficient to follow the principle laid down by the Supreme Court on these lines. Therefore, the argument put forward by the respondents on this aspect is rejected.

15. A Three Judges Bench of the Apex Court in S. ANBALAGAN v. B. DEVARAJAN AND OTHERS (1984 [2] SCC 112) had an occasion to consider the fate of a person who reconverted to his original religion and the effect of such reconversion. In this case the respondent's election as a member of Lok Sabha from Rasipuram Parliamentary Constitutency, a reserved constitutency for the Scheduled Caste candidates, was challenged by the appellant before the Election Tribunal on the ground that the respondent was a Christian and not a member of the Scheduled Caste. The Election Tribunal held that the respondent belonged to the Scheduled Caste and upheld the election. On appeal, the Supreme Court, after referring to the decisions in Administrator General of Madras v. Anandachari (ILR 9 Mad 466); Muthusami Mudaliar v. Masilamani (ILR 33 Mad 342) and Arumugam v. Rajagopal (AIR 1976 SC 939), held that that if such a convert becomes Hindu he will revert to his original caste and this appears to be particularly so in the case of members of the Scheduled Castes, who embrace other religions in their quest for liberation, but return to their old religion on finding that their disabilities have clung to them with great tenacity. Justice O. Chinnappa Reddy, speaking for the Bench, in paragraph 13, observed as follows:

> "13. These precedents, particularly those from South India, clearly establish that no particular ceremony is prescribed for reconversion to Hinduism of a person who had earlier embraced another religion. Unless the practice of the caste makes it necessary, no expiatory rites need be performed and, ordinarily, he regains his caste unless the community does not accept him. In fact, it may not be accurate to say that he regains his caste; it may be more accurate to say that he never lost his caste in the first instance when he embraced another religion. The practice of caste however irrational it may appear to our reason and however repugnant it may appear to our moral and social sense, is so deep-rooted

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in the Indian people that its mark does not seem to disappear on conversion to a different religion. If it disappears, it disappears only to reappear on reconversion. The mark of caste does not seem to really disappear even after some generations after conversion. In Andhra Pradesh and in Tamil Nadu there are several thousands of Christian families whose forefathers became Christians and who, though they profess the Christian religion, nonetheless observe the practice of caste. There are Christian Reddies, Christian Kammas, Christian Nadars, Christian Adi Andhras, Christian Adi Dravidas and so on. The practice of their caste is so rigourous that there are intermarriages with Hindus of the same caste but not with Christians of another caste. Now, if such a Christian becomes a Hindu, surely he will revert to his original caste, if he had lost it at all. In fact this process goes on continuously in India and generation by generation lost sheep appear to return to the caste-fold and are once again assimilated in that fold. This appears to be particularly so in the case of members of the Scheduled Castes, who embrace other religions in their quest for liberation, but return to their old religion on finding that their disabilities have clung to them with great tenacity. We do not think that any different principle will apply to the case of conversion to Hinduism of a person whose forefathers had abandoned Hinduism and embraced another religion from the principle applicable to the case of reconversion to Hinduism of a person who himself had abandoned Hinduism and embraced another religion."

In the present case, the petitioner, whose predecessors were originally Hindu Adi Dravidars, converted to Chirstianism, but later renounced Christianity and recoverted to Hinduism and his recoversion to Hinduism was recognised by his community people. However, the petitioner's claim that on his reconversion to his original community viz. Hindu Adi Dravidar he is entitled for the rights and others benefits meant for the Scheduled Caste candidates and, accordingly, he is entitled for appointment in the said post under the Scheduled Caste quota was rejected by the Public Service Commission holding that the petitioner, on reconversion, does not become a Hindu Adi Dravida. Considering the issue raised in the present case, in the light of the judgment of the Supreme Court in Anbalagan's case, cited supra, we hold that the petitioner, born to Christian parents, who was originally Hindu Adi Dravidars, embraces Christinaity, but later renounces Christianism and reconverted to his original community viz. Hindu Adi Dravidar and his reconversion was accepted by his community people and the association, he is entitled to the rights and benefits given to the Scheduled Caste

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people and therefore the petitioner is entitled to be appointed in the post of Civil Judge (Junior Division/Judicial Magistrate) as against the Scheduled Caste quota. Therefore the impugned order passed by the Public Service Commission classifying the petitioner as Backward Class candidate and informing him that based on the marks secured by him vis a vis the rule of reservation of appointments as a Backward Class candidate, he had not reached the zone of selection even for oral test is incorrect and illegal and it is liable to be set aside. Accordingly, we set aside the impugned order passed by the Public Service Commission.

16. It was informed by the learned Senior Counsel for the petitioner that at the time of admission of the writ petition an interim order was passed directing the respondents to keep one post vacant, pending disposal of the writ petition.

17. For the aforesaid reasons, we set aside the impugned order passed by the third respondent dated 8.6.2004 and the respondents are directed to forthwith appoint the petitioner, if he is otherwise eligible to be appointed, in the post which is kept vacant as Civil Judge (Junior Division/Judicial Magistrate, I Class) in the Tamil Nadu Judicial Service, with appropriate seniority.

In the result, the writ petition is allowed with the above directions. No costs.

dpk

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Registrar General,
   High Court,
   Madras 600 104.

2. The Secretary to Govt OF TN
   Adi Dravida and Tribal Welfare
   Department, Fort St. George,
   Chennai 9.

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3. The Deputy Secretary,
   Tamil Nadu Public Service Commission,
   Chennai 600 002.

+ 1 cc to the Government Pleader SR No. 52569

+ 1 cc to Mr. R. Suresh Kumar, Advocate SR No. 52468

+ 1 cc to Ms. A.L. Ganthimathi, Advocate SR No. 52392

RA(CO)
SR/13.11.2006

ORDER IN WP.NO.29822/2004

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